# HOUSE . . . . . . . . . . . . . . . No. 4175 [LOCAL APPROVAL RECEIVED.]

## The Commonwealth of Massachusetts

PRESENTED BY:

Cleon H. Turner

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act amending the town of Yarmouth charter.

#### PETITION OF:

Cleon H. Turner	1st Barnstable District
Robert A. O'Leary	Cape and Islands
Demetrius J. Atsalis	2nd Barnstable District

### The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

#### AN ACT AMENDING THE TOWN OF YARMOUTH CHARTER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. The charter of the town of Yarmouth, as appearing in chapter 133 of the acts of 1997, and
- 2 amended by chapter 105 of the acts of 1999, is hereby amended by striking out section 1-3-1 and
- 3 inserting in place thereof the following section:-
- 4 Section 1-3-1. The legislative powers of the town shall be vested in the town meeting. The executive
- 5 powers of the town shall be vested in the board of selectmen. The administrative powers of the town shall
- 6 be vested in the town administrator.
- 7 SECTION 2. Section 1-4 of the charter, as so appearing in said chapter 133 of said acts of 1997 is hereby
- 8 amended by striking out the words "-Intent of the Voters".
- 9 SECTION 3. Section 2-6-1 of said charter, as appearing in said chapter 133 of said acts of 1997, is hereby
- amended by striking out the 2<sup>nd</sup> sentence.
- SECTION 4. Said charter, as appearing in said chapter 133 of said acts of 1997, is hereby amended by
- inserting, after section 2-7-2, the following section:-
- 13 Section 2-7-3 By written petition to the board of selectmen, any 200 voters may require the calling of a
- special town meeting.
- 15 SECTION 5. Section 2-8-1 of said charter, as appearing in said chapter 133 of said acts of 1997, is
- hereby amended by adding the following 2 sentences:- The town moderator shall be the presiding officer
- of town meetings as provided in section 2-2, shall regulate its proceedings and shall perform such other
- duties as may be provided by the General Laws, this charter, by-laws or vote of town meeting. The town
- moderator shall appoint members to special committees as designated by town meeting vote.
- 20 SECTION 6. The charter of the town of Yarmouth, as appearing in said chapter 133 of said acts of 1997,
- 21 is hereby amended by striking out section 2-8-3 and inserting in place thereof the following section:-

- 22 Section 2-8-3 Any individual eligible to speak at town meeting shall not speak more than once, unless and
- 23 until all other voters wishing to speak, making themselves known and being recognized by the moderator,
- 24 have been provided with an opportunity to speak, nor shall any individual speak on any article for more
- 25 than 5 minutes at any one time except upon receiving permission of the moderator in advance of that
- 26 individual's presentation. This restriction shall not apply to the presenter of the article, making a motion
- 27 to move an article, the individual making a motion to amend the article, nor to those individuals required
- to be in attendance under the provisions of section 2-8-1.
- 29 SECTION 7. Said charter, as so appearing, is hereby further amended by striking out section 2-8-4 and
- inserting in its place thereof the following section:-
- 31 Section 2-8-4 Only registered voters of the town of Yarmouth shall have the right to address town
- 32 meeting or vote on any article presented at any town meeting.
- 33 SECTION 8. Said charter, as so appearing, is hereby further amended by striking out section 2-8-5 and
- inserting in place thereof the following section:-
- 35 Section 2-8-5 A Yarmouth property owner who is not also a registered voter, or the authorized
- 36 representative of such a property owner or of a registered voter who is not present at town meeting, or any
- 37 other individual, may be permitted to address town meeting only in the discretion of the town moderator.
- 38 SECTION 9. Said charter, as so appearing, is hereby further amended by striking out section 2-8-6 and
- inserting in place thereof the following section:-
- 40 Section 2-8-6 The board of selectmen shall, by recorded vote in the warrant, indicate its recommendations
- 41 on all articles.
- 42 SECTION 10. Said charter, as so appearing, is hereby further amended by striking out section 2-8-7 and
- inserting in place thereof the following section:-
- Section 2-8-7 A motion for reconsideration of any article acted upon at an annual or special town
- 45 meeting may not be made prior to 15 minutes following the final vote on the article to be reconsidered,
- 46 nor more than one hour after such vote, except that if deliberations on another article are pending at the
- 47 expiration of the hour, those deliberations need not be interrupted and such a motion may be made
- 48 immediately following the conclusion of the consideration of that article and prior to the consideration of
- 49 any further article. This minimum time limitation shall not apply to any article acted upon within the last
- 50 15 minutes of town meeting, nor shall the time limitations include any time when town meeting is not in
- 51 session.
- 52 SECTION 11. Said charter, as so appearing, is hereby further amended by inserting, after section 2-8-7,
- 53 the following sections:-
- Section 2-8-8 No motion, the effect of which would be to dissolve the town meeting, shall be in order
- 55 until every article on the warrant has been duly considered and acted upon. See section 10-1, Definitions.
- This requirement shall not preclude the postponement of an article or consideration of any motion to
- adjourn the meeting to a stated time and place.

- Section 2-8-9 All special committees created by any town meeting shall make a report in accordance
- 59 with the schedule set by the town meeting action which created the committee. Written copies of such
- 60 reports shall be submitted to the town clerk, town administrator, and the board of selectmen and shall be
- published in full or in summary form in the next annual town report.
- 62 SECTION 12. Chapter 3 of said charter, as appearing in chapter 133 of the acts of 1997, shall be
- 63 entitled:- Executive Branch
- 64 SECTION 13. Section 3-1 of said charter, as so appearing, is hereby amended by striking out the words
- 65 "and Other Elected Officers"
- 66 SECTION 14. Section 3-1-2 of said charter, as so appearing, is hereby amended by striking out the words
- "or appointed".
- 68 SECTION 15. Section 3-2-1 of said charter, as so appearing, is hereby amended by striking out the words
- "day to day policies" and inserting in place thereof the following words:- the policies of the board.
- SECTION 16. Section 3-4 of said charter, as so appearing, is hereby amended by striking out the word
- 71 "Appointments" and inserting in place thereof the following word:- Prohibitions
- 72 SECTION 17. Said charter, as so appearing, is hereby further amended by striking out section 3-4-1 and
- 73 inserting in place thereof the following section:-
- 74 Section 3-4-1 No member of the board of selectmen shall serve on any appointed town board established
- by this charter or by by-law, for which the board of selectmen is the appointing authority, except by an
- affirmative vote of 4/5ths of the members of the board of selectmen.
- SECTION 18. Said charter, as so appearing, is hereby further amended by striking out sections 3-4-2 to
- 78 3-4-5 inclusive.
- 79 SECTION 19. Said charter, as so appearing, is hereby further amended by striking out, in section 3-5, the
- 80 word "Administration" and inserting in place thereof the following words:- Powers in Intergovernmental
- 81 Relations.
- 82 SECTION 20. Said charter, as so appearing, is hereby further amended by striking out section 3-5-1 and
- inserting in place thereof the following section:-
- 84 Section 3-5-1 Members of the board of selectmen will represent the town on regional or intermunicipal
- 85 committees or may designate a town employee or other person to represent the town.
- 86 SECTION 21. Said charter, as so appearing, is hereby further amended by striking out, in section 3-6, the
- 87 word "Prohibitions" and inserting in place thereof the following words:- Other Officers and Town
- 88 Boards.
- 89 SECTION 22. Said charter, as so appearing, is hereby further amended by striking out section 3-6-1 and
- 90 inserting in place thereof the following section:-
- 91 Section 3-6-1 There shall be a town moderator, elected by popular vote for a term of 3 years at an annual
- 92 town election. If the office becomes vacant during any term, the board of selectmen shall include the

- vacancy either in the next annual or in a special election and may, by a 4/5 vote, appoint an interim
- 94 moderator until the election.
- 95 SECTION 23. Said charter, as so appearing, is hereby further amended by inserting, after section 3-6-1
- 96 the following sections:-
- 97 Section 3-6-2 The moderator shall be the individual designated to carry out all of the duties and functions,
- 98 in an orderly and efficient manner, necessary to regulate proceedings of annual town meetings and special
- 99 town meetings.
- Section 3-6-3 There shall be a town clerk, who shall be the keeper of the vital statistics for the town and
- the custodian of the town seal and all town official records, shall administer the oath of office to all town
- officers, elected and appointed, shall issue permits and licenses required by law, shall supervise and
- manage the conduct of elections, shall serve as clerk of town meeting, and shall have all other powers and
- duties which are given to town clerks by the General Laws, this charter, a by-law, or town meeting vote,
- 105 consistent with the provisions of this charter.
- SECTION 24. Said charter, as so appearing, is hereby further amended by striking out, in section 3-7,
- the words "Powers in Intergovernmental Relations" and inserting in place thereof the following words:-
- 108 Codification of By-Laws and Regulations.
- SECTION 25. Said charter, as so appearing, is hereby amended by striking out section
- 3-7-1 and inserting in place thereof the following section:-
- Section 3-7-1 The board of selectmen shall cause a compilation of by-laws and regulations to be made
- within 12 months of the adoption of this charter, and cause the compilation to be updated at least every 5
- 113 years.
- SECTION 26. Said charter, as so appearing, is hereby further amended by striking out, in section 3-8,
- the words "Other Officers and Town Boards" and inserting in place thereof the following words:- Charter
- 116 Revisions.
- 117 SECTION 27. Said charter, as so appearing, is hereby further amended by striking out section 3-8-1 and
- inserting in place thereof the following section:-
- Section 3-8-1 At least once every 10 years, a special committee shall be appointed by the town
- moderator, for the purpose of reviewing the provisions of the charter and to make a report, with
- recommendations to the town meeting, concerning any proposed amendments or revision which said
- committee may deem to be necessary or desirable.
- SECTION 28. Said charter, as so appearing, is hereby further amended by striking out sections 3-8-2, 3-
- 124 8-3, 3-8-4, 3-9, 3-9-1, 3-10 and 3-10-1.
- SECTION 29. Said charter, as so appearing, is hereby further amended by striking out chapter 4 in its
- entirety and inserting in place thereof the following chapter:-
- 127 CHAPTER 4.

128	ADMINISTRATIVE BRANCH.		
129	Section 4-1 – Town Administrator.		
130 131	Section 4-1-1 There shall be a town administrator, who shall be responsible for the administration of the town affairs, and who shall be the chief administrator of the town.		
132	Section 4-2 - Qualifications.		
133 134 135	Section 4-2-1 The town administrator shall be appointed under 5-1(a) on the basis of education, experience, executive and administrative qualifications. The professional qualifications shall be established by the board of selectmen and may be revised if necessary.		
136	Section 4-3 - Powers and Duties.		
137 138 139 140	responsible for General Laws	own administrator shall be the chief administrative officer of the town and shall be or administering and coordinating all employees, activities, and departments placed by or by-laws under the control of the board of selectmen and the town administrator. The shall implement the goals and carry out the policies of the board of selectmen.	
141 142 143 144	serving in such office unless such action is approved, in advance and in writing, by the board of		
145 146	•		
147 148 149	a)	Keep the board of selectmen fully informed as to the needs of the town, and to recommend to the selectmen, for adoption by it, such measures requiring action by it or by the town as the town administrator deems necessary or expedient.	
150 151	b)	Inform the selectmen on all department operations, fiscal affairs, general problems, and administrative action, and to this end submit periodic reports.	
152 153 154 155	c)	Keep the selectmen fully informed of the availability of all sources of outside funding, both public and private, including inter-governmental grants, so-called in lieu of payments, gifts, grants, contributions, and otherwise, giving special consideration as to how any such funding source might relate to the short and long-range needs of the town.	
156 157	d)	Prepare and present to the board of selectmen, a draft annual budget for the town, and a proposed capital outlay program.	
158 159 160 161	e)	Administer during the fiscal year the annual operating budget and capital outlay appropriations as voted by the town to assure all such funds are expended or committed in accordance with General Laws, by-laws, and the town meeting votes relating thereto. The town administrator, with the approval of the selectmen and the finance committee, shall	

162 have the authority to transfer funds within the budget as long as the total budget is not 163 increased. 164 f) Act as the chief procurement officer for the town. 165 g) Develop, keep and update annually a full and complete inventory of all real and personal property of the town. 166 167 h) Possess the right to attend and speak at any regular meeting of any town multi-member 168 body. 169 i) Negotiate collective bargaining contracts on behalf of the board of selectmen, unless the town administrator, with the approval of the board of selectmen, has designated another 170 negotiator or negotiating team. All such contracts shall be subject to the approval of the 171 172 board of selectmen. 173 j) Coordinate the activities of all town agencies serving under the office of the town administrator and the office of the board of selectmen with those under the control of other 174 175 officers and multi-member bodies elected directly by the voters. For this purpose, the town 176 administrator shall have authority to require the persons so elected, or their 177 representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town. 178 179 k) Attend all sessions of all town meetings and answer all questions directed to the town 180 administrator which relate to that office. 181 1) Perform such duties as assigned by by-law or vote of the board of selectmen. 182 Section 4-4 - Personnel Administration. 183 Section 4-4-1 The town administrator shall administer and enforce collective bargaining agreements, 184 personnel policies and practices, rules and regulations and personnel regulations adopted by the board of 185 selectmen. 186 Section 4-4-2 The town administrator shall prepare, maintain, and keep current a plan establishing the personnel staffing requirements for each town agency, except those under the jurisdiction of the Dennis-187 188 Yarmouth regional school committee. 189 Section 4-4-3 The personnel board shall review and vote recommendations to the town administrator on 190 proposed changes to job descriptions and pay classifications for year round, benefited positions. 191 Section 4-4-4 The creation of any new full time compensated position shall require approval by the 192 selectmen, and such action shall not be effective until the position has been funded by town meeting vote. 193 Section 4-4-5 The town administrator shall supervise, evaluate and direct all department heads, and 194 through the department heads, the town administrator shall supervise, evaluate and direct all paid 195 employees of the town.

Section 4-5 - Administrative Reorganization.

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- 197 Section 4-5-1 The town administrator may recommend to the board of selectmen and implement, with the
- selectmen's approval, reorganization of any department or position placed by this charter under the town
- administrator's direction or supervision, except as otherwise provided by General Laws, by-laws, or this
- 200 charter.
- 201 Section 4-6 Evaluation.
- Section 4-6-1 At least 3 selectmen shall annually evaluate the performance of the town administrator.
- The selectmen shall adopt a written set of procedures and criteria which shall form the basis for the
- evaluation.
- Section 4-6-2 The board of selectmen shall provide a copy of the evaluation to the town administrator
- and a copy shall be kept on file in the office of the board of selectmen for examination by the public.
- 207 Section 4-7 Term of Office.
- 208 Section 4-7-1 The town administrator shall serve a term of years under a contract as provided by section
- 209 108N of chapter 41 of the General Laws. The town administrator shall not have served in an elective
- office in the town government for at least 12 months prior to the appointment.
- 211 Section 4-7 of said acts shall be hereby amended by striking out the following subsection 4-7-2
- 212 Section 4-8 Acting Town Administrator.
- 213 Section 4-8-1 The town administrator may, subject to the approval of the board of selectmen, and by letter
- filed with the board of selectmen and the town clerk, designate a qualified town officer or employee to
- 215 exercise the powers and perform the duties of the town administrator during a temporary absence.
- SECTION 30. Said charter, as so appearing, is hereby further amended by striking out Chapter 5, in its
- 217 entirety, and inserting in place thereof the following chapter:-
- 218 CHAPTER 5.
- 219 APPOINTMENTS AND PERSONNEL POLICIES.
- 220 Section 5-1 Selectmen Appointments.
- 221 a) The board of selectmen shall appoint a town administrator by affirmative vote of a least 4/5ths of the members of the board of selectmen.
- b) The board of selectmen shall appoint town counsel by affirmative vote of at least 4/5ths of the members of the board of selectmen.
- 225 c) When a vacancy arises in the office of the town administrator, the board of selectmen shall advertise the vacancy as soon as practical in the local and regional publications. The board of selectmen shall fill the vacancy as quickly as possible, but in any case, within 9 months.
- d) During a vacancy caused by prolonged illness, suspension, removal, resignation or death of the town administrator, the board of selectmen shall designate, within ten days of the vacancy, a town

- employee or other qualified person to exercise the powers and perform the duties of the town administrator. This designation shall be for periods not to exceed 90 days.
- In the case of suspension, removal, resignation, or death, no more than 2 such 90 day designations shall be made.
- 234 e) The board of selectmen shall appoint in conformance with the General Laws, the board of registrars of voters and election officials by an affirmative vote of at least 4/5ths.
- The finance committee members shall be appointed by the chairman of the board of selectmen, the chairman of the finance committee, and the town moderator, as provided for in the town bylaw 47-4. All other functions and responsibilities of the finance committee shall be as outlined in section 47-4 of the town by-law.
  - g) The board of selectmen shall appoint all department heads. The town administrator shall submit to the board of selectmen the names of not less than 3 candidates for department head interviews and subsequent appointments. The group of department heads shall include those who are designated as such by the town administrator and approved by the board of selectmen.
    - h) The board of selectmen shall appoint such other town officers and members of multi-member bodies for which no other provision is made. Such appointments shall be consistent with the General Laws.
- 247 Section 5-2 Removal of the Town Administrator.
- Section 5-2-1 The board of selectmen, by the affirmative vote of at least 4/5ths of the members, may
- initiate the removal of the town administrator by adopting a resolution to that effect. Said resolution shall
- state the reason therefore, provided that no such resolution shall be adopted within 60 days following any
- town election. Any such resolution shall be adopted only at a regularly scheduled public meeting and in
- 252 open session.

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- 253 Section 5-2-2 The adoption of said resolution shall serve to suspend the town administrator for not more
- 254 than 45 days, during which his/her salary shall continue to be paid. A copy of such resolution shall be
- delivered in hand, forthwith to the town administrator or sent by registered mail, return receipt requested
- to the administrator's last known address.
- 257 Section 5-2-3 Within 5 days following receipt of such resolution, the town administrator may file a
- written request for a public hearing with the board of selectmen. Upon receipt of such request, the board
- of selectmen shall schedule a public hearing within 2 weeks. At least 7 days prior to the public hearing,
- 260 the board shall advertise the hearing in a local newspaper and shall cause identical notices stating the
- purpose, location, time, and date to be posted in the town hall and in every post office in town.
- Section 5-2-4 Town moderator shall preside at any such hearing.
- 263 Section 5-2-5 At any such hearing the reasons for the removal shall first be read aloud. The town
- administrator shall then have the right to respond, personally, or through counsel. The board of selectmen
- and the town administrator shall have the power to compel testimony and to subpoena any town records.

- Section 5-2-6 Final removal of any town administrator shall be effected by the affirmative vote of at least
- 267 4/5ths of the members of the board of selectmen at a public meeting, the time and place of which are
- announced, held within 7 days of such hearing, if any. If no hearing has been requested, final removal
- 269 may be effected by affirmative vote of at least 2/3rds of the members of the board of selectmen, at a
- 270 meeting of the board of selectmen held not earlier than 14 days after the resolution initiating removal is
- adopted. The salary of the town administrator shall be paid for a period of 60 days after the vote effecting
- 272 removal from the office or in accordance with the termination clause in the town administrator's contract.
- 273 Section 5-2-7 The town administrator shall provide the board of selectmen with at least 90 days notice of
- the town administrator's intent to resign. The board of selectmen may shorten or waive this requirement.
- 275 Section 5-3 Town Administrator Appointments.
- 276 Section 5-3-1 The town administrator may appoint an assistant town administrator. Should such
- appointment be made, it shall be consistent with the General Laws and town by-laws.
- 278 Section 5-3-2 The town administrator shall appoint all division heads. Appointments to the position of
- division head, as defined by the town administrator, shall become effective no later than the 15th day
- 280 following the day on which notice of the proposed appointment is filed with the board of selectmen,
- unless 4/5ths of the members of the board of selectmen shall vote to reject such an appointment within
- such period. Amended 4-14-1999 by Article 35.
- Section 5-3-3 The town administrator shall have the authority to appoint special single purpose
- committees after notifying the board of selectmen.
- 285 Section 5-3-4 The town administrator shall appoint all other compensated town personnel.
- Section 5-3-5 Except as provided in section 5-3-1, all appointments made or approved by the town
- administrator shall be effective immediately.
- 288 Section 5-4 Town Moderator Appointments.
- 289 Section 5-4-1 The town moderator shall appoint members to special committees as designated by town
- 290 meeting vote.
- 291 Section 5-4-2 See also section 5-1(f)
- 292 Section 5-5 Personnel Policies.
- Section 5-5-1 With the approval of the town administrator, department heads may employ, terminate, and
- 294 discipline employees under their departmental jurisdiction.
- 295 SECTION 31. Said charter, as so appearing, is hereby further amended by striking out Chapter 6 in its
- 296 entirety and inserting in place thereof the following chapter:-
- 297 CHAPTER 6.
- 298 TOWN BOARDS, COMMITTEES AND COMMISSIONS.

- 299 Section 6-1 Powers.
- 300 Section 6-1-1 Multi-member bodies shall possess and exercise all powers given to them under the
- 301 constitution and the General Laws, and shall have and exercise such additional powers and duties as shall
- 302 be granted and delegated by this charter, by-law, or vote of the town meeting. Such committees or boards
- 303 shall report to the board of selectmen for policy matters and report to the town administrator for
- 304 administrative matters.
- 305 Section 6-2 Organizations and Procedures.
- 306 Section 6-2-1 All appointed boards, committees and commissions shall:
- a) organize annually;
- b) elect a chairperson and other necessary officers;
- c) publish a quorum requirement for their meetings in accordance with the General Laws;
- d) adopt rules of procedure and voting; and
- e) maintain minutes and all other records of proceedings, copies of which shall be a public record and filed monthly with the town clerk; and
- f) annually submit a report for inclusion in the annual town report.
- 314 Section 6-2-2 To maximize communication and cooperation between the board of selectmen and the
- elected and appointed boards and committees, all multi-member bodies shall meet with the board of
- 316 selectmen at least annually.
- 317 Section 6-2-3 All multi-member bodies, elected and appointed, shall conduct their meetings in accordance
- with the open meeting provisions of the General Laws.
- 319 Section 6-2-4 Except as provided in this charter, nothing shall be deemed to prevent or prohibit a
- 320 compensated town employee from serving on a multi-member body, provided that such body shall have
- 321 no administrative responsibility over any such employee, subject only to chapter 268A of the General
- 322 Laws.
- 323 Section 6-2-5 Any person duly appointed to any office or multi-member body shall take up the duties of
- 324 the office immediately; provided that such person first shall have been sworn to the faithful performance
- of those duties by the town clerk.
- 326 Section 6-2-6 The absence, without appropriate explanation, of a member from 4 consecutive meetings of
- any appointed multi-member body shall be grounds for removal from office by the appointing authority.
- 328 The legitimacy of the explanation provided by the absent member shall be assessed by majority vote of
- 329 the multi-member board and reported to the appointing authority. When such an absence occurs, the
- 330 chairperson shall advise the appointing authority forthwith, who shall take appropriate action which may
- include removal of the member from the office and filling the vacancy in a timely fashion in accordance
- with the General Laws and this charter.

- 333 Section 6-3 Compensation.
- 334 Section 6-3-1 Members of appointed multi-member boards may receive such compensation as may be
- authorized by the town meeting. During the term for which a member is appointed and for 1 year
- following expiration of such term, no member of any appointed board under this charter shall be eligible
- to accept any additional paid position under any such multi-member board.
- 338 Section 6-4 Change in Composition of Appointed Multi-Member Bodies.
- 339 Section 6-4-1 The town meeting may, by amendment to the applicable by-laws, increase or decrease the
- number of persons to serve as members of multi-member boards established under this chapter, provided,
- however, that all such boards shall always consist of an uneven number of members and no fewer than 3.
- 342 CHAPTER 7
- 343 FINANCIAL PROVISIONS AND PROCEDURES.
- 344 Section 7-1 Submission of Budget and Budget Message.
- 345 7-1-1 Annually, by October 15, the town administrator shall establish and issue a budget schedule
- which shall set forth the calendar dates relating to the development of the annual operating budget for the
- ensuing fiscal year.
- 348 7-1-2 The schedule shall be in accordance with this charter unless deviation there from is recommended
- by the town administrator and approved by the board of selectmen and the finance committee.
- 350 7-1-3 Annually, by October 15, the town administrator shall request and receive from the town
- treasurer, town collector, the town accountant, the board of selectmen, and the board of assessors the
- estimated revenue for the ensuing fiscal year. Upon receipt of any additional specific fiscal data provided
- by the commonwealth or any other source, the above officials shall revise, update, and submit the data
- 354 forthwith to the town administrator.
- 355 7-1-4 Annually, by November 5, the board of selectmen, after consulting with the town administrator,
- 356 shall issue a policy statement to the town administrator, finance committee and Dennis-Yarmouth
- 357 regional school committee.
- 358 7-1-5 All department heads and all multi-member bodies shall submit their budget requests to the town
- administrator by December 1.
- 360 7-1-6 By December 31, the town administrator shall submit to the board of selectmen and the finance
- 361 committee a comprehensive draft budget for all town functions for the ensuing fiscal year and an
- accompanying draft budget message.
- 363 7-1-7 The draft budget message shall explain the draft budget both in fiscal terms and in terms of what
- specific projects are contemplated in the year ahead. It shall:
- a) outline the proposed financial policies of the town for the ensuing fiscal year;
- 366 b) describe the important features of the budget;

- 367 c) indicate any major changes from the current fiscal year in financial policies, expenditures, and
- revenues, together with the reasons for such changes;
- d) summarize the town debt positions; and
- e) include such other material as the town administrator may deem appropriate.
- 371 7-1-8 The draft budget shall provide a complete financial plan for all town funds and activities and shall
- be in such form as the town administrator, in consultation with the finance committee, may establish. The
- draft budget shall indicate proposed expenditures for current operations and for capital projects during the
- ensuing fiscal year, detailed by each town agency and by specific purposes and projects.
- 375 Section 7-2 Action on Proposed Budget.
- 376 7-2-1 The finance committee shall, by February 29, recommend a proposed budget, with or without
- amendments, and shall submit it to the board of selectmen. In preparing its review, the committee may
- 378 require the town administrator, any town department, office, board, commission, or committee, including
- school, to appear or to furnish it with appropriate additional financial reports and budgetary information.
- 380 7-2-2 A public hearing with public participation is to be held prior to town meeting at which time the
- town administrator shall present the financial projection for the coming fiscal year, and the finance
- committee, capital budget committee and the Dennis-Yarmouth regional school committee shall present
- 383 their budgets to the board of selectmen.
- 384 Section 7-3 Budget Adoption.
- 385 7-3-1 The town meeting shall adopt the annual operating budget, with or without amendments, prior to
- 386 the beginning of the fiscal year.
- 387 Section 7-4 Capital Improvements Plan.
- 388 7-4-1 The town administrator shall prepare a five year capital improvements plan which shall be
- designed to deal with unmet long-range needs, and to implement the goals and objectives of the official
- 390 town plan.
- 391 7-4-2 The capital improvements plan shall include all town activities and departments, and the Dennis-
- 392 Yarmouth regional school district.
- 393 7-4-3 The capital improvements plan shall include:
- a) a clear summary of its contents;
- b) a list of all capital improvements proposed to be undertaken during the next five years, together with supporting data;
- c) cost estimates, methods of financing, and recommended time schedules; and
- d) the estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired.

- 400 The above information may be revised and shall be extended each year with regard to capital
- improvements pending or in the process of construction or acquisition.
- 402 7-4-4 The town administrator shall submit the capital improvements plan to the capital budget
- 403 committee and the finance committee prior to October 1. The capital budget committee shall act thereon
- and submit its recommendations to the finance committee and the board of selectmen by December 1.
- 405 The board of selectmen may at its discretion insert warrant articles seeking appropriations for proposed
- 406 capital expenditures and adopt the capital improvement plan with or without amendment.
- 407 Section 7-5 Notice of Public Hearing on Capital Improvements Plan.
- 408 7-5-1 The board of selectmen shall publish the capital improvements plan on the official town website
- and shall publish in a local newspaper a notice stating:
- a) the times and places where copies of the Capital Improvements Plan are available for inspection; and
- b) the date, time and place when the board of selectmen and the finance committee shall conduct a joint
- 412 public hearing on said plan.
- 413 Section 7-6 Capital Improvements Planning.
- 414 7-6-1 A committee of seven voters shall be appointed by the finance committee to be known as the
- capital budget committee, in accordance with article 16 of the annual Town meeting held on April 7,
- 416 1981.
- 417 7-6-2 The requirements of section 7-6-1 may be waived by a 2/3rds vote of the annual meeting.
- 418 Section 7-7 Annual Audit.
- 419 7-7-1 Prior to the end of each fiscal year, the board of selectmen and the town administrator shall retain
- 420 a certified public accountant or qualified accounting firm to conduct an independent annual audit.
- 421 <u>CHAPTER 8</u>
- 422 ELECTIONS.
- 423 Section 8-1 Town Elections.
- 424 8-1-1 The regular election for all town offices shall be by official ballot held on the date established by
- 425 by-law.
- 426 Section 8-2 Town Elections to be Nonpartisan.
- 427 8-2-1 All town elections shall be nonpartisan and election ballots shall be printed without any party
- 428 mark or designation.
- 429 Section 8-3 Eligibility for Town Office.
- 430 8-3-1 Any residents eligible to vote in town elections shall be eligible for election to any elective office
- or multi-member body of the town.

- No person shall hold, concurrently, more than one paid executive or town office.
- 433 Section 8-4 Time of Taking Office.
- 434 8-4-1 Any person duly elected to any office or multi-member body shall forthwith be sworn by the
- town clerk or his or her designee and assume the duties of the office.
- 436 Section 8-5 Recall Election.
- 437 8-5-1 Any recall election shall be conducted under the provisions of chapter 344 of the acts of 1989.
- 438 CHAPTER 9
- 439 CONTINUITY.
- 440 Section 9-1 Continuation of Existing Laws.
- 441 9-1-1 Except as specifically provided in this charter, all general and special laws, by-laws, votes, rules
- and regulations of or pertaining to the town of Yarmouth which are not inconsistent with the provision of
- this charter shall continue in full force and effect until amended or rescinded by due course of law or
- expire by their own limitation.
- Section 9-2 Continuation of Boards, Committees and Agencies.
- 446 9-2-1 Except as specifically provided in the charter, all committees, boards, commissions, councils,
- departments, offices, and other agencies of the town shall continue in existence and their incumbents shall
- continue to perform their duties until not reappointed, reelected or elected or their duties have been
- 449 transferred.
- 450 Section 9-3 Transfer of Records and Property.
- 451 9-3-1 If a power or duty is reassigned as the result of the provisions of this charter, the records,
- property, and equipment necessary to fulfill said power or duty shall likewise be reassigned to the newly
- 453 responsible office or agency.
- 454 9-3-2 Said transfer shall be carried out under the direction of the town administrator.
- 455 Section 9-4 Amending Charter.
- 456 9-4-1 This charter may be revised, amended, or replaced in accordance with the procedures made
- 457 available by article 89 and article 113 of the amendments to the constitution of the commonwealth and
- any legislation enacted to implement said amendments.
- 459 <u>CHAPTER 10</u>
- 460 DEFINITIONS.
- 461 10-1 Unless the context otherwise requires, from the manner in which the word is used, the following
- words, as used in this charter, shall have the following meanings:

- 463 "Appoint"- To select to fill an office or to employ in the service of the town.
- "Certification" A person has been declared elected and sworn to the faithful performance of duty by the town clerk.
- "Charter" This charter and any amendments to it made through any of the methods provided
   under articles 89 and 113 of the amendments to the constitution of the commonwealth.
- 468 "Dissolve the Town Meeting" As used in section 2-8-8, shall refer to the final and
- 469 permanent ending of the town meeting at which the motion is made, so that no further action may
- 470 thereafter be taken on any matter included in that meeting's warrant.
- "General Laws" The Massachusetts General Laws.
- 472 "Local newspaper" A newspaper of general circulation in the town.
- 473 "Majority vote" A majority of those present and voting; provided, however, that a quorum of the body
- is present.
- 475 "Multi-Member-Body" Any board, commission, or committee of the town consisting of 3 or more
- 476 persons, whether appointed or elected.
- **"Town" -** The town of Yarmouth.
- 478 "Town Agency" Any office, department, board, committee, or commission of the town government.
- 479 "Voters" The registered voters of the town of Yarmouth.
- 480 "Words" Importing the singular number may extend and be applied to several persons or things, words
- 481 importing the plural number may include the singular, and except where the context requires, wherever
- words are used in one gender, they shall be construed to include the other gender and the neuter.